

## REMARKS

The present request is submitted in conjunction with a Request for Continued Examination (RCE) and in response to the final Office Action dated November 13, 2008, which set a three-month period for response. Filed herewith is a Request for a One-month Extension of Time, making this amendment due by March 13, 2009.

Claims 1-10 are pending in this application.

In the final Office Action, claims 1-5 and 7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,301,790 to Zeiler et al in view of U.S. Patent No. 5,074,179 to Omi. Claims 6 and 8-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Zeller in view of Omi and in further view of U.S. Patent No. 7,255,144 to Smith.

In the present amendment, the claims have been amended to more clearly define the present invention over the cited references. The Applicants respectfully submit that the amended claims are not rendered obvious by the cited references, whether viewed alone or in combination.

On page 3 of the final rejection, the Examiner states that while the Applicants argued that Zeiler in combination with Omi does not teach an anti-kickback system which would enable the saw blade to react into minimal cutting depth and to decouple from the handle, structural limitations relating to this feature are not specifically recited in the claims.

Therefore, in light of the Examiner's comments, amended claims 1 and 5 now define that "the saw assembly (12) is pivotably detachable relative to the footplate

via an overload coupling and configured to be automatically fully decoupled from an adjusted cutting depth instantaneously during sawing if kickback occurs". Support for this new language can be found in the specification on page 2, lines 12-17.

As pointed out previously, the device shown in the Zeiler reference has a handle which can be swiveled around the saw housing only when the saw motor is in an "off" position. This element is discussed in Zeiler, column 6, from line 39 and shown in Figs. 4 through 7, in particular, Fig. 5 ("...means for preventing the switch assembly 142 from connecting the motor 18 to the power source when the locking assembly 82 is in the unlocked condition.")

If kickback occurs, the saw in Zeiler jumps up and the saw blade now has means and opportunity to retract into the position of minimum cutting depth and to minimize the kickback energy. The handle, however, transfers force from the user's hand to the saw during kickback, which makes the kickback effect even worse, as the saw then tends to turn quickly around in the user's hand so that the saw blade may cut the user.

The cited reference to Omi does not show any anti-kickback system which would enable the sawblade to retract into minimal cutting depth and to decouple from the handle. As such, Omi appears not to be a relevant reference. The damping apparatus noted by the Examiner is ineffective against kickback and would not minimize its effect in any way.

The claims as amended therefore are not obvious over the cited reference combinations.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01). When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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